



North Carolina Department of Public Safety

Prisons

Roy Cooper, Governor
Erik A. Hooks, Secretary

Reuben F. Young, Interim Chief Deputy Secretary
Kenneth E. Lassiter, Director

Certified Mail Receipt #: 7016 0750 0000 1804 0850
and Regular U.S. Mail

March 5, 2019

David Allen Aaron
Correctional Captain III
PERNR: 1517523
Lanesboro Correctional Institution
[REDACTED]

RE: Dismissal (Revised)

Dear Mr. Aaron:

NOTE: This Dismissal letter is being revised and re-issued to correct an error in the previous letter regarding the effective date of your Dismissal. The original Dismissal letter stated that the your dismissal was effective February 28, 2019; however, the correct date of your Dismissal is March 1, 2019 .

This letter is to inform you of Management's decision concerning the recommendation for disciplinary action following our Pre-Disciplinary Conference held on February 28, 2019. Management has decided to dismiss you effective **March 1, 2019**, based on, Unacceptable Personal Conduct as defined in Section 7, XIII, Definitions, of the State Human Resources Manual.

This decision was made after a review of all of the information available, including prior disciplinary actions, the current incident of Unacceptable Personal Conduct, and the information you provided during the Pre-Disciplinary Conference.

The specific reasons for your Dismissal are:

- 1) You solicited the assistance of two (2) offenders to "set up" staff at Lanesboro Correctional Institution. Specifically, you engaged in the following activities:
 - a) You provided Officer [REDACTED] telephone number to offenders [REDACTED] and [REDACTED]. You provided the number in order for the offenders to enter her number into a cellular watch device to then be found by other facility staff and result in disciplinary action against Officer [REDACTED]. The watch was, in fact, found and an investigation was initiated on Officer [REDACTED].

MAILING ADDRESS:
P. O. Box 280
Polkton, NC 28135
www.ncdps.gov



OFFICE LOCATION:
552 Prison Camp Road
Polkton, NC 28135
Telephone: (704) 695-1013
Fax: (704) 695-1080

- b) You provided an electronic recording device to offender [REDACTED] for the purpose of "setting up" staff. Conversations between offender [REDACTED] and you recorded on this device were discovered on a flash drive that you acknowledged as yours.
- 2) You engaged in unauthorized surveillance operations of staff at Lanesboro Correctional Institution.
- 3) You violated the Procurement Card purchasing policy by ordering unauthorized items to affect your surveillance of staff and then concealed your actions by having the items shipped to your residence.

On October 23, 2018, as a result of the investigation into your actions, you were temporarily placed to a work assignment at Southern Correctional Institution with no supervisory duties pending an internal investigation into your conduct.

As part of this internal investigation, you, other staff members, and offenders were interviewed and provided witness statements. The following summarizes the findings of the investigations as it relates to your unacceptable personal conduct:

1) You solicited the assistance of two offenders to "set up" staff at Lanesboro. Specifically, you engaged in the following activities:

- a) You provided Officer [REDACTED]' telephone number to offenders [REDACTED] and [REDACTED]. You provided the number in order for them to enter her number into a cellular watch device to then be found by other facility staff and result in disciplinary action against Officer [REDACTED]. The watch was, in fact, found and an investigation was initiated on Officer [REDACTED].
- Specifically, on August 22, 2018, a cellular watch device was found in offender [REDACTED] cell displaying Officer [REDACTED]' telephone number. There was also an unsent text message that suggested she was bringing contraband into the facility. Based on this evidence, management initiated an internal investigation on Officer [REDACTED]. The allegations that Officer [REDACTED] engaged in the alleged misconduct were never proven.
- On August 24, 2018, while the above referenced investigation was pending, offender [REDACTED] told Sergeant [REDACTED] that he was working with you to catch "dirty" staff members that you could not catch. Offender [REDACTED] told Sergeant [REDACTED] that he "set up" Officer [REDACTED] by putting her number in a cell phone with which offender [REDACTED] had recently been caught. Offender [REDACTED] wrote a statement detailing his involvement and gave Sgt. [REDACTED] the statement. He also gave her a list of other staff that he was supposed to "set up."
- On October 24, 2018, for purposes of the pending investigation into your actions, you turned in several equipment items, as directed, to me, Lanesboro Correctional Institution Facility Administrator Miranda Richardson. Included in these items, was a Samsung Flash Drive.
- On October 29, 2018, Assistant Superintendent William Rogers advised me, Administrator Richardson, that you had requested to have access to the flash drive to get some files to work on. Due to this request, I uploaded the files on the flash drive to find out what they were. I opened a file labelled "recordings." To my surprise, I heard sounds of staff radios, staff

communication, doors opening and closing, and offenders talking. The recordings were of activities within the facility and the dates of the file started in June 2018 and ran through August 2018. I was able to identify your voice on the recordings.

- During the pending investigation, the OSI Investigators were provided the above referenced recordings from your flash drive. One of the recorded conversations investigators heard was labeled "August 10, 2018." In this recording, you are heard informing offender [REDACTED] that Officer [REDACTED] "knew everything." You are also heard telling offender [REDACTED] about a meeting in the Administrator's Office where Officer [REDACTED] alleged she was set up with the cell phone, and accused offenders [REDACTED] and [REDACTED] of working with you. You discussed with offender [REDACTED] that Officer [REDACTED] was being fired and he questioned the reason. You informed him that Officer [REDACTED] knew they set her up with the "telephone number". Offender [REDACTED] observed a letter and told you "that's the letter that was written" and he described the inconspicuous handwriting. He stated "the way you told us ([REDACTED]) to do it, to make it look legit". Offender [REDACTED] asked you if the cell phone incident was going to stick so Officer [REDACTED] would be fired and questioned you about the location of the cell phone. You explained you needed to get it back, but needed to wait until you knew if Officer [REDACTED] was going under investigation or be fired.
 - When questioned about the above allegations, you reported you did have a data base of compromised staff and a data base of all staff addresses and telephone numbers. You also confirmed that you did utilize offender [REDACTED] to provide information about offenders and some staff. You stated you began using offender [REDACTED] about a month prior to his transfer out of Lanesboro Correctional, but you denied that you used him to "set up" staff.
- b) You provided an electronic recording device to offender [REDACTED] for the purpose of "setting up" staff.
- The above referenced recordings that were located on your flash drive that you turned over to me, Administrator Richardson, contain audio recordings from within the facility, including sounds of staff radios, staff communication, doors opening and closing, and offenders talking. I was able to identify your voice on the recordings. Western Region Director David Mitchell also reviewed the recordings and heard your voice on several of the recordings.
 - In addition, during the above referenced August 24, 2018 conversation between offender [REDACTED] and Sergeant [REDACTED], offender [REDACTED] pulled a piece of plastic from his medicine pouch and claimed it was a recording device. [REDACTED]
 - As a part of the investigation, OSI Investigators also reviewed excerpts from the flash drive recordings. Based on information in the conversations, the actual recorded content does not support the file name date. However, in the recorded conversation with a file name of "August 10, 2018," and more specifically described above, the review clearly revealed offender [REDACTED] was in possession of a recording device. In this recorded conversation, in addition to discussing your actions with regard to Officer [REDACTED], you also asked offender [REDACTED], "you got the thing? (referring to the recording device) I'm going to charge it up." The "August 10, 2018" recording also indicated that you were aware that offender [REDACTED] had access to a cell phone by virtue of the fact that you discussed the cell phone device and your plans regarding

Officer [REDACTED]. The review of this recording clearly revealed offender [REDACTED] was in possession of a recording device.

- When asked if you provided to or had knowledge of offender [REDACTED] possessing a recording device, you stated you did not provide offender [REDACTED] with a recording device. You stated you had no knowledge of a recording device, and you did not use offenders to set up staff. When questioned about the Samsung Flash Drive, you confirmed that the flash drive belonged to you and acknowledged that you turned it over to Mr. Rogers upon your reassignment. You acknowledged you did ask Mr. Rogers to return the flash drive so you could work on SRG files. The audio file on the flash drive named "8/10/2018 11:46 am" was downloaded and played for you to hear. The file played was a conversation involving two male voices previously identified as offender [REDACTED] and you. You denied recognition that it was your voice played on the recording. However, you offered no explanation of who the other voice would have been, if not your own.

North Carolina General Statute 14-258.1 (d) states: "Any person who knowingly gives or sells a mobile telephone or other wireless communications device, or a component of one of those devices, to an inmate in the custody of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety, to a delinquent juvenile in the custody of the Juvenile Justice Section of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety, or to an inmate in the custody of a local confinement facility, or any person who knowingly gives or sells any such device or component to a person who is not an inmate or delinquent juvenile for delivery to an inmate or delinquent juvenile, is guilty of a Class H felony."

NC DPS Prisons Policy, Chapter F, Section .4000, Cellular/Wireless Device Management states: **".4004 DEFINITIONS (c) Cellular/Wireless Device-** mobile telephone, smart phone or other wireless communication device or a component of one of those devices, to include Bluetooth devices, earpieces, battery packs, electrical chargers and other accessories marketed, manufactured, or invented for the purpose of facilitating or supporting cellular or wireless communication. (d) North Carolina General Statute 148-23.2. Section 2 & 14-258.1 Section 3 part (d)- the act to prohibit, on the premises of correctional institutions, the possession of a cellular telephone outside of a locked vehicle is a criminal offense. A person who knowingly gives or sells any such device or component, or confers such device to another person for delivery, to an inmate is guilty of a Class 1 misdemeanor. This statute applies to full and part-time Department of Public Safety employees, job applicants, contractual employees, volunteers, members of the public, inmates and their visitors".

Based on the findings of the investigation, including the recording of your discussion with offender [REDACTED], it was determined you did give offender [REDACTED] Officer [REDACTED]' telephone number to enter into a cellular watch device to be placed in offender [REDACTED]'s cell for the purpose of "setting up" Officer [REDACTED]. While it could not be determined whether you gave the offenders this cellular device, it is clear from the evidence that, at a minimum, you were aware that the offenders were in possession or had access to the cellular device found. Furthermore, by your own admission, you were using offender [REDACTED] to provide information about offenders and "some staff". Although you deny doing so, witness statements by staff, offenders and the recorded conversations discovered on your flash drive clearly indicate you told him how to write the anonymous letter about Officer [REDACTED] by telling staff where they could find the cellular device. You also told offender [REDACTED] how Officer [REDACTED] knew she had been set up with the cell phone. In addition, while you denied it was your voice on the recordings, members of management identified your voice on several of the recordings. Furthermore, although you

denied that the voice was yours, your denial is not credible. The recording of your conversation was located on your flash drive, but you were unable to offer any other explanation of who the voice would have been, if not your own. You also denied having knowledge of any recording device but provided no explanation of how the recording was created or why it was found on your flash drive.

Your training record shows you have attended Staff and Offender Relations training on many occasions. Therefore, you are very aware of and familiar with these expectations and that professional boundaries should be respected and maintained between employees and offenders. Clearly, your conduct in this matter crosses professional boundaries and violates State law. In passing North Carolina General Statute 14-258.1, State Lawmakers recognized the serious security risk to staff, offenders and the general public when an offender is in possession of a cellular device. Nevertheless, you had knowledge that the offenders were in possession of an electronic cellular device, and you provided recording equipment to the offender. Your conduct compromises your effectiveness as a Correctional Captain and is considered Unacceptable Professional Conduct sufficient to warrant disciplinary action, up to and including dismissal.

2) You engaged in the unauthorized surveillance of staff at Lanesboro Correctional Institution.

- Correctional Lieutenant [REDACTED] reported you talked to him about working with offenders [REDACTED] and [REDACTED] and obtaining information on staff who you believed to be "dirty." Lieutenant [REDACTED] stated offender [REDACTED] was providing information on issues of staff misconduct to facility intelligence (Officer [REDACTED], himself and you). Offender [REDACTED] also confirmed that you were working together to catch "dirty staff." However, you did not have authority from the facility head or the Region Director to engage in a surveillance operation.
- Correctional Assistant Superintendent of Operations William Rogers specifically told you that only the Region Director can approve a recording device. Mr. Rogers was aware you knew this policy, because you asked him to speak with Correctional Administrator John Herring regarding approval to use a recording device. Mr. Rogers spoke with Mr. Herring about your request, but did not know if Mr. Herring had requested Region Director J. C. Huggins' approval. Mr. Rogers reported weeks or days later, you asked if Mr. Herring had heard from Mr. Huggins about his request. Mr. Rogers told you just to move on from trying to get the approval.
- Former Lanesboro Correctional Institution Correctional Administrator John Herring stated that he was never aware of any "covert" operations by you, thus never approved any. Mr. Herring reported that he was never asked or consulted about any purchases approved by Mr. Rogers or Mr. Reynolds regarding cameras, recording devices, subscriptions, etc.
- When questioned about the above allegations, you confirmed that you did have a data base of compromised staff, and a data base of all staff addresses and telephone numbers. You also admitted that you did utilize offender [REDACTED] to provide information about offenders and some staff. You stated you began using offender [REDACTED] about a month prior to his transfer out of Lanesboro Correctional, but you never used him to "set up" staff.

NC DPS Prisons, Security Manual, .1900 Surveillance Operations, Subsection .1903 Conducting Surveillance Operations, states, "(a) legal issues – Prior to beginning any Surveillance Operation, the Facility Head and the Investigator must understand the legal framework within which legitimate surveillance can be conducted. It is mandatory that the facility conducts surveillance operations in a manner that completely conforms to accepted practices under the law. An understanding of pertinent

legal issues is imperative. It should be stressed that intentional misuse of surveillance equipment by any staff member may be cause for disciplinary action, up to and including dismissal..." The policy states further in Section (d) Facility Head Responsibility that "the facility head bears the ultimate responsibility for surveillance operations. It is he or she who will approve the deployment of audio or video recording devices, usually after consultation with the investigator, and with the permission of the Region Director's Office..." Pursuant to Section (e) Investigator Responsibility, "the role of the investigator is complex and important, and it falls to him or her to coordinate surveillance activity in most cases. He must install and monitor equipment without detection, sometimes for extended periods of time. He must weigh the value and truthfulness of informants and their information, and make judgments about whether and how to act on intelligence. He or she must interpret all information gathered and form a conclusion about the overall situation. He will report his findings to the facility head for disposition." (f) Region Director Notification – The Region Director, or, in his or her absence the Region Operations Manager, shall be notified when a facility within their region is considering utilizing overt and covert surveillance equipment. The facility head will contact the Region Director's office and inform the Region Director or designee of the reasons for the request. It is during this conversation that consent, legal, privacy, and other relevant issues will be addressed to the Region Director's satisfaction. The Region Director or Region Operations Manager will have the authority to approve or deny the request to use surveillance equipment in any facility within his or her region."

With regard to these findings, your actions clearly violated agency policy and known written work rules. You engaged in unauthorized surveillance operations when you provided an offender with a recording device, without prior and proper approval. You also gave staff personal information to an offender, which is clearly conduct for which no one in your position as a Correctional Captain should expect to receive prior warning and is further conduct unbecoming a Correctional Captain.

3) You violated the Procurement Card purchasing policy by ordering unauthorized items to affect your surveillance of staff and then concealed your actions by having the items shipped to your residence.

Administrative Specialist II [REDACTED] reported that, since you were given a Procurement Card (P-Card), you had abused the process on several occasions. Mr. [REDACTED] provided information regarding the following purchases:

- On June 26, 2018, you put in a DC-704 Purchase Request Form, for the purchase of a Camera Adapter with the justification that it was an adapter for FIO (Facility Intelligence Officer) to allow enhanced pictures. Mr. [REDACTED] did not look at the attached page, which showed a small mini spy camera with night vision and motion control. There was also a Spy Tec GPS on the DC-704. The entry was handwritten onto the form and not typed like the camera adapter. The total cost did not match the costs of the original entries. Mr. [REDACTED] reported that the Spy Tec GPS device was a vehicle tracker and would have been used in an investigation regarding two former officers' location.
- On July 10, 2018, you purchased a three-month subscription to "BeenVerified", which was described as a "background checker". According to the DC-704 form justification, the subscription was to be used on compromised staff. Mr. [REDACTED] stated that the attachment to the DC-704 form showed an employee's name who was separated on March 30, 2018, which indicated you were doing checks on former employees as well as current employees. You made this purchase prior to the DC-704 form being approved. On July 24, 2018, Mr. [REDACTED]

informed you this purchase was denied, and you reported to him that you had cancelled the subscription.

- On July 12, 2018, you purchased a "portable device and pc camera" and had the merchandise shipped to your home address. Mr. [REDACTED] told you that you could not do that, and if it happened again, he would revoke your P-Card.

A review of the documentation for your P-Card purchases in question revealed the following:

- The DC-704, Requisition/DC-702/P-Card Purchase Request Worksheet, signed by you on June 26, 2018 listed (typewritten)
 - A Camera Adapter from Amazon for \$36.99 with the justification for purchase listed as "for FIO camera to allow to digitally enhance picture". The attached Order Placed receipt dated June 26, 2018 for \$36.99 listed the item as a "Mini Spy Hidden Camera, NYS 1080P Portable Small HD Nany Cam with Night Vision and Motion Detective, Perfect Indoor covert Security Camera for Home and Office". Your signature on this attachment is dated June 26, 2018.
 - A Laminator from Walmart for \$19.94 with the justification listed as "laminator for Operations", and
 - A handwritten entry for a Spy Tec GPS from Amazon for \$49.95 with the justification (handwritten) listed as "FIO device for tracking". The attached order placed receipt dated June 27, 2018 for \$49.95 listed the item as "Spy Tec STI GL300 Mini Portable Real Time Personal and Vehicle GPS Tracker".
- The shipping address listed for both of these items is listed as "[REDACTED]", which is your home address. This DC-704 was approved by [REDACTED] on June 27, 2018. Therefore, it appears that you, not only incorrectly listed the item description of the Mini Spy Hidden Camera on the DC-704, but you placed the order for that item prior to receiving approval for the purchase.
- The DC-704 signed by you on July 10, 2018 listed a three-month subscription to "BeenVerified" for \$52.44, with the justification listed as "Subscription for conducting background checks into compromised staff". The attached Order Summary to this DC-704 states "Report on [REDACTED]", "3 Months Subscription Unlimited Reports", "All-Access 4 Search Types" and "Total Today: \$52.44". Your signature on this attachment is dated July 10, 2018. However, this DC-704 does not have an signature on the "Approved by Signature/Date" line. Therefore, it appears that you ordered and used this subscription prior to receiving approval for the purchase. There are handwritten notes on the DC-704 indicating you were instructed by Mr. [REDACTED] to cancel the subscription.
- The DC-704 signed by you on July 16, 2018 listed a Samsung Portable Drive from Amazon for \$84.99 with the justification listed as "High capacity jump drive for dumping cell phone data". The attached Order Placed receipt to this DC-704 is dated July 13, 2018 with item order listed as "Samsung BAR Plus 256GB - 300MB/s USB 3.1 Flash Drive Titan Gray (MUF-256BE4/AM) for a total of \$84.99. This order also shows a shipping address of your home address. You signed this Order Placed receipt on July 13, 2018. This DC-704 was approved by [REDACTED] on July 24, 2018. Therefore it appears that you again placed an order for an item prior to receiving approval for the purchase. This item also matches the description of the Samsung

flash drive with the file labeled "Recording" which you turned in to Ms. Richardson on October 24, 2018.

- The DC-704 you signed on July 20, 2018, listed a PC Camera from Amazon for \$24.99 with a justification of "FIO webcamea (sic) broke, replacing with a new one". The Order Placed receipt dated July 20, 2018 for \$24.99 listed the item as "Yilador YL450 Webcam 1080P Full HD with Noise Cancelling Microphone, High Definition Web Camera, Sky Webcams Wide Angle for PC Computer Latop Desktop, Compatible with Mac OS X and Windows 10, 8, 7". You signed this Order Placed receipt on July 20, 2018. This DC-704 was approved by Mr. [REDACTED] on July 24, 2018. Therefore, it appears that you again placed an order prior to receiving approval to make the purchase.
- Included in the investigation is an email dated July 18, 2018 from Accounting Technician [REDACTED] to you which requests that "you please provide the signed DC-704, Quote and Invoice for the following purchase made on your p-card":
07/10/18 - \$52.44 purchase made to BVD Benn Verified.com
07/10/18 - \$34.95 purchase made to STI Inc.
07/14/18 - \$84.99 purchase made to Amazon.com
You replied to this email on July 18, 2018 stating, "Disregard the 34.95, that is a subscription for a device, I will include it when my supervisor returns".
- When questioned about the above purchases, you stated you did not recall the justification for each item as listed on the DC-704, but you used the webcam for "interviews" with offenders. The GPS was never used, but was purchased for the purpose of tracking different things such as DOT workers and trail routes through the woods. The Mini Spy Camera was purchased for monitoring the deer cameras, which are stationed outside the facility.

North Carolina Department of Public Safety Procurement Card Policy and Procedures Manual states, "When a purchased is made, the Cardholder must obtain an itemized receipt. The Cardholder is responsible for ensuring that the receipt is legible. For internet purchases, the confirmation screen must be printed. The screen should include the detail information concerning the number of items and the total cost".

This policy lists examples of unauthorized purchases that should NOT be made with the card:

- Personal Purchases
- Identification Purposes
- Computers/Printers/Copiers/Software/Laptops/Tablets/Cellular Devices and accessories
- Monthly services to include phone bills, cable, postage meters, and other monthly rentals.

In addition, this policy states: "If a cardholder is making unauthorized purchases for which the Card is not intended—such as entertainment or any other item on the "unauthorized list" on page 15—he/she may be liable for the total dollar amount of such unauthorized purchases plus administrative fees charges by the bank in connection with the misuse. The cardholder may be subject to one of the following actions depending on the severity and repetitiveness of the violation:

- a. Cardholder will be advised to stop using the Card outside of policy. Cardholder and Cardholder Manager will be notified of the infraction by the Departmental Card Administrator. The Cardholder will also be advised of possible Card Cancellation if further violations occur.

- b. Card cancellation for a term of six months. The Cardholder and Cardholder's Manager will be notified of the violation and the cancellation of the Card. Reinstatement of the Card will be granted after the six (6) term only upon approval of the Department Card Administrator.
- c. Permanent cancellation of the Card. Removal of the Cardholder's buying authority and appropriate disciplinary action up to and including termination.

On January 19, 2018, you were issued a Procurement Card and signed the NC DPS Employee Procurement Card Agreement. This agreement states:

"I, David Aaron, hereby acknowledge that I have been issued a Procurement Card. As the hold of the card, I agree to comply with the following terms and conditions regarding of my use of the card (please initial each box).

1. *I understand that I am being entrusted with a valuable tool - a Procurement Card - and will be making financial commitments on behalf of the Division.*
2. *I understand that the Division is liable to the contracted bank for all charges made on the Procurement Card.*
3. *I agree to use this Procurement Card for approved purchases only and agree **NOT TO CHARGE PERSONAL PURCHASES**. I understand there will be audits on the use of the Procurement Card and that management will take appropriate action in the event of Procurement Card misuse.*
4. *I will follow established procedures for use of the Procurement Card. Failure to do so may result in disciplinary action up to and including dismissal, in accordance with divisional and Office of State Personnel (OSP) policy. Submitting the required receipts/paperwork upon completion of each transaction is a mandatory step in the process to ensure facility accounts may be paid on time.*
5. *I have read and been trained on the Procurement Card Policy, and Requirements and Procedures (R&P) and understand the requirements for the Procurement Card's use. Card usage does not supersede any established State Purchasing or Contract rules. Items on State Term Contracts **MUST** be purchased from the contract.*
6. *I agree to return the Procurement Card immediately upon request and/or termination of employment, including retirement.*
7. *If the Procurement Card is lost or stolen, I will notify the Center Card Administrator and the bank immediately."*
8. *I understand and will comply with the designated purchasing limits assigned to my card.*

Based on the findings of the investigation, you failed to comply with the Procurement Card policy. You purchased items prior to having proper facility approval, and you purchased items that are unauthorized. In addition, you purchased these unauthorized items and had them mailed to your home address. You knew you were not authorized to purchase the equipment. Your actions suggest that you were attempting to conceal your unauthorized purchases by shipping the items to a place other than the facility. Even more concerning is the fact that the equipment you purchased included surveillance equipment. Based on a review of the items, it is apparent that you did, or intended to utilize the equipment to further your ongoing unauthorized surveillance operation of offenders and other staff. Your willful actions in this incident are clearly considered Unacceptable Personal Conduct and are sufficient to warrant disciplinary action up to and including dismissal.

In addition to the policy violations, as set forth above, the State Human Resources Manual, Disciplinary Action Policy, Section 7 regarding Unacceptable Personal Conduct states in part, *"Just-cause-to wa or take other disciplinary action for unacceptable personal conduct may be created by intentional or*

unintentional acts. The conduct may be job-related (on duty) or off duty so long as there is a sufficient connection between the off duty conduct and the employee's job.

Unacceptable personal conduct may include but is not limited to:

- conduct for which no reasonable person should expect to receive prior warning;
- job-related conduct which constitutes a violation of State or federal law;
- the willful violation of known or written work rules;
- conduct unbecoming a State employee that is detrimental to State service;
- serious disruption in the workplace."

The Disciplinary Action policy further states that no prior disciplinary action is required for causes relating to any form of unacceptable personal conduct. This means an employee may be dismissed for a single incident of Unacceptable Personal Conduct.

NC DPS Prisons Policy, Chapter A, Section .0200, Conduct of Employees, states: "Prison employees must be persons of sound moral character. In dealing with inmates and the public, they must firmly establish authority yet show themselves worthy of trust by maintaining unimpeachable conduct on and off duty."

Additionally this policy states:

.0202 Conditions of Continued Employment: (f) Personal Dealings with Inmates (1) Employees will maintain a quiet but firm demeanor in their dealings with inmates and will not indulge in undue familiarity with them... (2) Employees will not borrow anything from or lend anything to nor accept gifts or personal services from, nor barter or trade with any inmate, except as specifically authorized by law, regulations, or directive.... Employees will not make gifts or perform personal services for inmates not in keeping with authorized operations... (8) Any employee involved in such personal dealings with inmates as outlined in section A.202 (f) will be subject to disciplinary action up to and including dismissal.

A review of your personnel record found you have been employed with this agency since May 1, 2006. You received your first promotion from Correctional Officer to Correctional Sergeant on November 1, 2010. You received several promotions since then and have held your current position as Correctional Captain since January 26, 2015.

The Department of Public Safety Division of Adult Correction requires annual and semi-annual training to remind and reinforce the expectation for employees to comply with certain agency, State and Federal policies. You most recently attended the following training on the dates indicated:

- Staff & Offender Relations – Maintaining Professional Boundaries – April 21, 2015;
- Safe Search Practices (816-B) – March 30, 2016;
- Communication & Relationships with Staff – January 16, 2018;
- Preventing Workplace Harassment v2 – March 1, 2018;
- Security Mentor – Computer Security – May 31, 2017.

As a Correctional Captain and supervisor with the Department of Public Safety, you are expected and required to perform your duties in accordance with applicable law, prison policy, standard operating procedures, post orders and daily orders. You are also expected to serve as the Officer-In-Charge and, in that capacity, are expected and required to make judgment decisions that not only comply with policy, but also are consistent with and achieve the goals of the agency. As a Correctional Captain, you

are also expected to serve as an example for subordinate staff regarding adhering to policies and procedures of the Department and to enforce these same policies, including taking corrective action if warranted. Clearly, the investigation determined your actions fell seriously short of these expectations. Such behavior is inconsistent with the core values of the agency and does not reflect the high standard of conduct to which all DPS employees are held accountable. Any one of the multiple policy violations would justify your immediate dismissal. Although you have been employed since May 1, 2006 (corrected), your credibility has been significantly damaged and management has lost confidence in your effectiveness to perform your duties and to supervise staff and offenders. As a result, you are being dismissed.

The previous steps taken by management to improve deficiencies in your job performance and/or conduct include the following:

- On January 19, 2018, you were issued a Written Warning for Unacceptable Personal Conduct as the result of failing to conduct a thorough investigation into the allegations of an offender assault on staff and a staff use of force.

During the Pre-Disciplinary Conference on February 28, 2019, you stated you wanted your home address removed from your Notification of Pre-Disciplinary Conference letter and from any public record. You noted that the written warning listed in the Notification of Pre-Disciplinary Conference letter expired on December 22, 2018. You also stated that your start date was incorrectly listed in your Notification of Pre-Disciplinary Conference letter. This date has been corrected from May 1, 2008 to May 1, 2006 in this dismissal letter. You did not present any significant information to dispute the facts obtained in the investigation or to change the recommendation.

If you are a "career State employee" (as defined in N.C.G.S. §126-1.1) and wish to appeal this decision, you must do so in writing within fifteen (15) calendar days. The appeal must be submitted by using the Step 1 Grievance Filing Form HR 555. The appeal must be mailed to the Grievance Intake Coordinator, Department of Public Safety, 512 N. Salisbury Street, 4201 Mail Service Center, Raleigh, NC 27699-4201. As an alternative to mail, the appeal may be emailed to Grievance.Appeals@ncdps.gov, or hand delivered to the State Capitol Police, 417 N. Salisbury Street, Raleigh, NC 27603, between the hours of 8:00 a.m. and 5:00 p.m. Regardless of the method of filing, the appeal must be received by the Grievance Intake Coordinator on or before the fifteenth (15th) calendar day after receiving this letter in order to be timely filed. Failure to comply with this time frame shall result in your appeal not being accepted and it will be administratively closed. I have attached a copy of the Employee Grievance Policy (North Carolina State Human Resources Manual) for your review. If you are not a "career State employee" (as defined in N.C.G.S. §126-1.1), this action is final and carries no appeal rights.

NCGS 126-23 (a) (11) provides that Dismissal letters are public information and must be released, if requested.

Sincerely,


Miranda Richardson
Correctional Facility Administrator

Enclosures:

Employee Grievance Policy (North Carolina State Human Resources Manual)

Mr. David Allen Aaron
Dismissal
March 5, 2019
Page 11 of 12

Department of Public Safety Grievance Filing Form

cc: Unit File
Personnel File – Raleigh
Employee Relations